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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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AUG 23 2004

Federal Communication Commission
Bureau / Office

In the Matter of)

)
Amendment of Section 73.622(b),)
Table of Allotments,)
Digital Television Broadcast Stations)
(Fresno, California))

MB Docket No. 04-236
RM-11001

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Federal Communications Commission
Office of the Secretary

To: Chief, Video Division
Media Bureau

COMMENTS
OF
CHAMPION COMMUNICATION SERVICES, INC.

Champion Communication Services, Inc. ("Champion" or "Company"), by its attorneys and in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") Rules, respectfully submits its comments in the above-entitled proceeding.¹ For the reasons detailed below, Champion urges the Commission to proceed expeditiously to substitute DTV channel 38 for DTV channel 16 in Fresno, CA. The Company also asks the FCC to direct KSEE Licensee, Inc. ("KSEE"), licensee of station KSEE, NTSC channel 24 and DTV channel 16, to cease operating on channel 16 until that substitution has been made and its facilities modified to channel 38.

The channel substitution proposed in the NPR is required to eliminate ongoing destructive interference from KSEE's digital operation in Fresno to primary land mobile licensees, including public safety entities, operating on channel 16 in both San Francisco and Los Angeles. Although the channel 16 Fresno allocation satisfies the mileage separation for protecting co-channel land mobile facilities specified in FCC Rule Section 73.623(e), it is

¹ Notice of Proposed Rule Making, DA 04-1846 (July 2, 2004) ("NPR").

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undisputed that the separation is not adequate in this instance, presumably due to the very high elevation of KSEE's digital transmitter location.² KSEE has advised the FCC it does not believe the interference can be corrected by technical means, including modification of its antenna.³ Therefore, it has determined that the only way to resolve the problem is by modifying its facility from channel 16 to channel 38.⁴

Champion agrees with KSEE's conclusion and urges the Commission to proceed as expeditiously as possible to finalize this proceeding and permit KSEE to change channels. In the interim, however, as it has in several earlier pleadings relating to this matter, the Company urgently requests the FCC to direct KSEE to suspend its operations on channel 16. Champion first brought the matter of KSEE-DT interference to co-channel land mobile systems in the San Francisco, CA market to the Commission's attention on February 3, 2004.⁵ The Company notified the FCC that Champion and other land mobile licensees were experiencing destructive interference from KSEE's digital operations on channel 16 in the Fresno, CA area. Champion explained that its customers had been experiencing interference for more than eight months at that time, rendering their systems unusable. After substantial investigation, the Company had determined that KSEE was the source of the interference. Champion contacted KSEE about the problem, but the interference has continued unabated since KSEE placed its channel 16 DTV facility into operation some fifteen months ago. In the meantime, Champion has lost a significant number of customers whose communications had been entirely disrupted by this ongoing problem.

² *NPR* at ¶ 2.

³ *Id.*

⁴ *Id.*

⁵ *Request for Issuance of Cease and Desist Order, Station KSEE – Channel 16 DTV, Fresno, CA.* filed by Champion Communication Services, Inc. (Feb. 3, 2004) ("Champion Request").

Subsequently, the County of Los Angeles (“County”) also petitioned the Commission to order KSEE to “take all necessary action to cease immediately interference to the County’s public safety communications systems,”⁶ having determined that KSEE’s use of channel 16 also was causing interference to the radio communications of the County’s Sheriff’s Department. The County advised the Commission that the KSEE-generated interference “is creating dangerous holes in the Sheriff’s radio communications coverage, which leaves deputies and the public at risk.”⁷

KSEE opposed both the Champion Request and the County Complaint.⁸ Nonetheless, it also cooperated with the County in running tests to identify and quantify the interference, and to determine whether technical solutions were possible.⁹ The instant NPR is the outcome of those tests and confirms what Champion and the County alleged at the outset: KSEE’s use of channel 16 causes uncorrectable, destructive interference to primary land mobile stations.

While the Company is pleased that KSEE and the Commission now are persuaded that the problem is real and requires the channel substitution proposed herein, its customers and other land mobile users should not be subject to continued interference until this proceeding is finalized and KSEE’s facilities modified. The Commission recently adopted a number of extraordinary actions in its Order addressing the 800 MHz interference problem, stating that those actions “are based on unique and compelling public interest considerations in the record before us regarding the serious and continuing public safety interference problems in the 800

⁶ *Interference Complaint and Petition*, filed by the County of Los Angeles at p. 1 (Mar. 5, 2004) (“County Complaint”).

⁷ *Id.* at p. 2.

⁸ See *Opposition to Request for Issuance of Cease and Desist Order*, filed Feb. 19, 2004 and *Opposition to Interference Complaint and Petition*, filed Mar. 18, 2004.

⁹ KSEE has undertaken no such cooperative effort with Champion or, to the best of its knowledge, any other land mobile licensee in the San Francisco market.

MHz band.”¹⁰ While the scope of interference in this instance is more limited, the FCC nonetheless has a statutory obligation to take all necessary and reasonable actions to eliminate ongoing harmful interference to public safety and other protected communications. The temporary cessation of digital television transmissions to the very limited number of viewers capable of receiving such transmissions is amply justified when doing so is the only means of addressing a more than fifteen-month old interference problem. The FCC should address this ongoing problem by directing KSEE to suspend its operations on channel 16 in Fresno immediately and by expediting Commission action on the NPR so KSEE may resume digital operation on channel 38 at the earliest possible date.

Respectfully submitted,

**CHAMPION COMMUNICATION
SERVICES, INC.**

By:



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August 23, 2004


¹⁰ *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, WT Docket No. 02-55, FCC 04-168 (rel. Aug. 6, 2004).

CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, Chartered, hereby certify that I have, on this 23rd day of August, 2004, caused to be mailed, postage pre-paid, a copy of the foregoing Comments to the following:

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